

# House File 2343 - Introduced

HOUSE FILE \_\_\_\_\_  
BY MAY

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to submission of a DNA sample of a person  
2 arrested for or convicted of a felony.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 6045YH 82  
5 jm/rj/8

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1 1 Section 1. Section 81.1, Code 2007, is amended by adding  
1 2 the following new subsections:  
1 3 NEW SUBSECTION. 0A. "Arrest" means the same as in section  
1 4 804.5 and as "taking into custody" in section 232.2.  
1 5 NEW SUBSECTION. 0B. "Dismissal of the charges" means  
1 6 dismissal of the complaint, indictment, or information in  
1 7 adult court and dismissal of the complaint or petition in  
1 8 juvenile court.  
1 9 Sec. 2. Section 81.1, subsection 8, Code 2007, is amended  
1 10 to read as follows:  
1 11 8. "Person required to submit a DNA sample" means a person  
1 12 convicted, adjudicated delinquent, receiving a deferred  
1 13 judgment, or found not guilty by reason of insanity of an  
1 14 offense requiring DNA profiling pursuant to section 81.2.  
1 15 "Person required to submit a DNA sample" also means a person  
1 16 arrested for an offense classified as a felony and a person  
1 17 determined to be a sexually violent predator pursuant to  
1 18 section 229A.7.  
1 19 Sec. 3. Section 81.2, Code Supplement 2007, is amended by  
1 20 adding the following new subsection:  
1 21 NEW SUBSECTION. 0A. A person arrested for an offense  
1 22 classified as a felony shall be required to submit a DNA  
1 23 sample for DNA profiling pursuant to section 81.4.  
1 24 Sec. 4. Section 81.4, subsection 2, Code 2007, is amended  
1 25 to read as follows:  
1 26 2. A supervising agency having control, custody, or  
1 27 jurisdiction over a person shall collect a DNA sample from a  
1 28 person required to submit a DNA sample. The supervising  
1 29 agency shall collect a DNA sample, upon admittance to the  
1 30 pertinent institution, jail, or facility, of the person  
1 31 required to submit a DNA sample or at a determined date and  
1 32 time set by the supervising agency. If a person required to  
1 33 submit a DNA sample is confined at the time a DNA sample is  
1 34 required, the person shall submit a DNA sample as soon as  
1 35 practicable. If a person required to submit a DNA sample is  
2 1 not confined after the person is required to submit a DNA  
2 2 sample, the supervising agency shall determine the date and  
2 3 time to collect the DNA sample.  
2 4 Sec. 5. Section 81.9, subsections 1 and 2, Code 2007, are  
2 5 amended to read as follows:  
2 6 1. A person whose DNA record has been included in the DNA  
2 7 database or DNA data bank established pursuant to section 81.3  
2 8 may request, in writing to the division of criminal  
2 9 investigation, expungement of the DNA record from the DNA  
2 10 database and DNA data bank based upon dismissal of the charges  
2 11 which caused the submission of the DNA sample, or the person's  
2 12 conviction, adjudication, or civil commitment which caused the  
2 13 submission of the DNA sample being reversed on appeal and the  
2 14 case dismissed. The written request shall contain a certified  
2 15 copy of the final court order dismissing the charges or  
2 16 reversing the conviction, adjudication, or civil commitment,  
2 17 and a certified copy of the dismissal, and any other  
2 18 information necessary to ascertain the validity of the  
2 19 request.  
2 20 2. The division of criminal investigation, upon receipt of

2 21 a written request that validates the dismissal of the charges,  
2 22 or reversal on appeal of a person's conviction, adjudication,  
2 23 or commitment, and subsequent dismissal of the case, or upon  
2 24 receipt of a written request by a person who voluntarily  
2 25 submitted a DNA sample pursuant to section 81.3, subsection 3,  
2 26 paragraph "b", shall expunge all of the DNA records and  
2 27 identifiable information of the person in the DNA database and  
2 28 DNA data bank. However, if the division of criminal  
2 29 investigation determines that the person is otherwise  
2 30 obligated to submit a DNA sample, the DNA records shall not be  
2 31 expunged. If the division of criminal investigation denies an  
2 32 expungement request, the division shall notify the person  
2 33 requesting the expungement of the decision not to expunge the  
2 34 DNA record and the reason supporting its decision. The  
2 35 division of criminal investigation decision is subject to  
3 1 judicial review pursuant to chapter 17A. The department of  
3 2 public safety shall adopt rules governing the expungement  
3 3 procedure and a review process.

3 4 Sec. 6. NEW SECTION. 81.11 DNA PROFILE == COMPLETION.  
3 5 A DNA profile of a person required to submit a DNA sample  
3 6 shall be completed within ninety days of the person submitting  
3 7 the DNA sample.

3 8 Sec. 7. Section 229A.7, subsection 6, Code 2007, is  
3 9 amended to read as follows:

3 10 6. If the court or jury determines that the respondent is  
3 11 a sexually violent predator, the court shall order the  
3 12 respondent to submit a DNA sample for DNA profiling pursuant  
3 13 to section 81.4 if a DNA sample has not been previously  
3 14 submitted pursuant to chapter 81.

3 15 Sec. 8. Section 232.52, subsection 10, Code Supplement  
3 16 2007, is amended to read as follows:

3 17 10. The court shall order a juvenile adjudicated a  
3 18 delinquent for an offense that requires DNA profiling under  
3 19 section 81.2 to submit a DNA sample for DNA profiling pursuant  
3 20 to section 81.4 if a DNA sample has not been previously  
3 21 submitted pursuant to chapter 81.

3 22 Sec. 9. Section 331.653, Code 2007, is amended by adding  
3 23 the following new subsection:

3 24 NEW SUBSECTION. 72. Carry out duties relating to  
3 25 collecting DNA samples pursuant to section 81.4.

3 26 Sec. 10. Section 901.5, subsection 8A, paragraph a, Code  
3 27 2007, is amended to read as follows:

3 28 a. The court shall order DNA profiling of a defendant  
3 29 convicted of an offense that requires DNA profiling under  
3 30 section 81.2, to submit a DNA sample for DNA profiling if a  
3 31 DNA sample has not been previously submitted pursuant to  
3 32 chapter 81.

3 33 Sec. 11. Section 906.4, unnumbered paragraph 3, Code 2007,  
3 34 is amended to read as follows:

3 35 The board may order the defendant to provide a physical  
4 1 specimen to be DNA sample for DNA profiling if a DNA sample  
4 2 has not been submitted for DNA profiling pursuant to chapter  
4 3 81 as a condition of parole or work release, if a DNA profile  
4 4 has not been previously conducted pursuant to chapter 81. In  
4 5 determining the appropriateness of ordering DNA profiling, the  
4 6 board shall consider the deterrent effect of DNA profiling,  
4 7 the likelihood of repeated offenses by the defendant, and the  
4 8 seriousness of the offense.

4 9 Sec. 12. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
4 10 3, shall not apply to this Act.

4 11 EXPLANATION

4 12 This bill expands the number of persons required to submit  
4 13 a DNA sample in a criminal proceeding.

4 14 The bill provides that a person arrested for an offense  
4 15 classified as a felony shall submit a DNA sample for storage  
4 16 in the DNA bank and DNA database maintained by the division of  
4 17 criminal investigation of the department of public safety.  
4 18 The bill also applies to juveniles taken into custody for an  
4 19 offense classified as a felony if committed by an adult.

4 20 Current law requires a person to submit a DNA sample if  
4 21 convicted, adjudicated delinquent, receiving a deferred  
4 22 judgment, or found not guilty by reason of insanity of an  
4 23 offense requiring DNA profiling pursuant to Code section 81.2.

4 24 The bill provides that upon admittance to a county jail,  
4 25 the county sheriff shall collect a DNA sample from a person  
4 26 arrested for a felony.

4 27 The bill also provides that if the offense which caused the  
4 28 submission of a DNA sample is dismissed, the person who  
4 29 submitted the DNA sample may file a written request along with  
4 30 certified copies of relevant court records to expunge the DNA  
4 31 record from the DNA bank and DNA database. Under the bill, if

4 32 the written request validates the dismissal of the charges the  
4 33 division of criminal investigation shall expunge the DNA  
4 34 record.  
4 35 The bill also requires the DNA profile of a person required  
5 1 to submit a DNA sample to be completed within 90 days of the  
5 2 person submitting the DNA sample.  
5 3 The bill may include a state mandate as defined in Code  
5 4 section 25B.3. The bill makes inapplicable Code section  
5 5 25B.2, subsection 3, which would relieve a political  
5 6 subdivision from complying with a state mandate if funding for  
5 7 the cost of the state mandate is not provided or specified.  
5 8 Therefore, political subdivisions are required to comply with  
5 9 any state mandate included in the bill.  
5 10 LSB 6045YH 82  
5 11 jm/rj/8